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| SYLVIA STOPS,             | : | Order Expediting and Dismissing |
| Appellant                 | : | Appeal                          |
|                           | : |                                 |
| v.                        | : |                                 |
|                           | : | Docket No. IBIA 93-20-A         |
| BILLINGS AREA DIRECTOR,   | : |                                 |
| BUREAU OF INDIAN AFFAIRS, | : |                                 |
| Appellee                  | : | April 1, 1993                   |

This is an appeal from a September 21, 1992, decision of the Billings Area Director, Bureau of Indian Affairs, declining to issue a decision in a Crow election dispute on the grounds that the dispute was a matter for resolution within the Crow Tribe. The appeal was docketed on November 10, 1992. Briefing has now been completed.

On March 31, 1993, the Area Director filed a motion for expedited consideration of this appeal. He enclosed a copy of a temporary restraining order issued on March 29, 1993, by the Crow Tribal Court, restraining the Tribal Chairperson and Secretary from entering into negotiations with the State of Montana to settle a pending lawsuit. The Tribal Court's order indicates that it is based on the pendency of this appeal before the Board.

The Area Director states that a negotiating session was scheduled for March 30, 1993, and that "not only will the expense of those negotiations possibly be lost, but the ability to resolve that litigation will be affected as well. The Tribe's claim in that litigation nears \$200 million and is important to the United States and the Tribe."

Given the significant interests of the Tribe and the United States which are at stake here, the Board grants the Area Director's motion for expedited consideration.

This controversy concerns a May 9, 1992, tribal election. On or about May 14, 1992, appellant and other tribal members filed a petition contesting the election with the Tribal Election Board. The Election Board met to consider the petition on May 21, 1992, and reaffirmed the original election results. Appellant then wrote letters to various Departmental officials, seeking to persuade them not to recognize the election results. Those letters ultimately produced the decision at issue here.

The Area Director discussed a number of cases 1/ before concluding:

It is my decision, based upon the above referenced cases, to deny your request to rule on the Contest of Election. As the above cases point out, it is within the Crow Tribe's inherent authority to rule on intra-tribal matters. Accordingly, it has been the policy of this office for many years to refrain from making decisions in tribal disputes where there is a tribal forum available for that purpose.

(Area Director's Sept. 21, 1992, Decision at 2).

Upon filing her appeal with this Board, appellant was advised that she would be required to demonstrate her standing to bring the appeal. The Board stated:

In Frease v. Sacramento Area Director, 17 IBIA 250, 256 (1989), the Board stated that "[t]he Department [of the Interior] has never recognized \* \* \* any right of an individual tribal member to bring an action based on a personal assessment of what is or is not in the tribe's best interest." This position is based on the Department's responsibility to refrain from interfering in intra-tribal disputes. However, in Sundberg v. Acting Sacramento Area Director, 18 IBIA 207, 210 (1990), the Board found standing when the appellant's tribal position was directly at issue.

(Nov. 10, 1992, Notice of Docketing at 1). The Board furnished appellant with copies of the Frease and Sundberg decisions to assist her in preparing her argument.

Appellant contends that she has standing because, under the Crow constitution, all adult tribal members are members of the Crow Tribal Council. The Board finds that the governmental structure of the Crow Tribe does not serve to vest appellant with standing here. Especially with respect to the election of tribal officials, the role of a Crow tribal member is the same as that of a member of any other tribe. And the intrusive effect of Board proceedings upon the tribe's right to self-government is the same here as it would be in the case of any other tribe. Accordingly, the Board finds that appellant lacks standing to bring this appeal.

Appellant further contends, however, that Dennis Big Hair, Sr., is an appellant here and that he has standing under Sundberg because he was a candidate for Tribal Chairman. Big Hair, however, did not file a notice of appeal with the Board. Appellant's notice of appeal was filed in her own

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1/ These were Santa Clara Pueblo v. Martinez, 436 U.S. 49 (1978); New Mexico v. Mescalero Apache Tribe, 462 U.S. 324 (1983); Wheeler v. U.S. Department of the Interior, 811 F.2d 549 (10th Cir. 1987); and Stands Over Bull v. Billings Area Director, 6 IBIA 98 (1977).

name only. Appellant's opening brief stated that she and 65 members of the Crow Tribe were appealing. This belated statement cannot cure the failure of the 65 to file a timely notice of appeal. 2/ See, e.g., Leon v. Albuquerque Area Director, 23 IBIA 248, 249 n.1 (1993).

The Board finds that this appeal must be dismissed for lack of standing.

Even if appellant had shown that she has standing here, and the Board had therefore reached the merits of this appeal, it would have summarily affirmed the Area Director's decision. The law upon which the Area Director relied is firmly established. As the Area Director held, intra-tribal disputes must be resolved in tribal forums, not in the Department of the Interior. Further, the Department is obligated to respect the resolution reached by the tribal forum. Wheeler, supra; Smalley v. Eastern Area Director, 18 IBIA 459 (1990).

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal is dismissed.

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Anita Vogt  
Administrative Judge

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Kathryn A. Lynn  
Chief Administrative Judge

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2/ Because appellant did not purport to file her notice of appeal on behalf of anyone other than herself, no question of her authority to represent others arose. The Board notes, however, that nothing in the record shows either that any tribal members ever authorized appellant to represent them or that appellant is qualified under 43 CFR 1.3 to represent others in Departmental proceedings.